

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL

No. 1373

Introduced by Senator Lieu

February 24, 2012

An act to add Section 1371.6 to the Health and Safety Code, and to add Section 10133.68 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1373, as amended, Lieu. Health care coverage: out-of-network coverage.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law requires plans to reimburse noncontracting providers for emergency services and care rendered to enrollees of the plan, as specified. Existing law requires plans to, upon request, provide a list of specified contracting providers within the enrollee's or prospective enrollee's general geographic area. Existing law provides for the regulation of health insurers by the Department of Insurance and authorizes health insurers to contract for alternative rates of payment with providers. Existing law requires insurers to provide group policyholders with a current roster of institutional and professional providers under contract to provide services at alternative rates under their group policy and to make that list available for inspection during regular business hours at the insurer's principal office.

Under this bill, when an enrollee or insured ~~seeks care~~ *is under a specified type of contract or policy that covers services rendered by noncontracting providers seeks covered services from* ~~a an individual~~

noncontracting provider, ~~the provider would be required to provide a specified written notice to the enrollee or insured informing the enrollee or insured that the provider is not in the enrollee's or insured's plan or provider network, as specified. The bill would require a~~ *at the provider's office or the office of the provider's provider group, or at a health facility for an elective or scheduled procedure, the individual provider or the facility would be required to provide the enrollee or insured a notice containing certain information, as specified. The bill would require the plan or insurer to reimburse a the individual noncontracting provider for covered services rendered by the provider to an enrollee of the plan or insured of the insurer using the rate and method of payment applied to contracting providers at a rate other than the rate usually paid to a noncontracting provider, unless the plan or insurer determines that the enrollee or insured reasonably should have known that the provider was a noncontracting provider, except as specified. The bill would provide that the enrollee or insured reasonably should have known that the provider was a noncontracting provider if the provider or the facility provided the notice described above.* The bill would also prohibit a health facility or a provider group from holding itself out as being within a plan *or provider network* unless all of the individual providers providing services at the facility or with the provider group are within the plan *or provider network*.

Because a violation of these requirements with respect to a health care service plan would be a crime, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1371.6 is added to the Health and Safety
- 2 Code, to read:
- 3 1371.6. (a) ~~When an enrollee seeks health care services from~~
- 4 ~~a noncontracting provider, the provider shall, prior to providing~~
- 5 ~~care to the enrollee, provide a written notice to the enrollee~~

1 informing him or her that the provider is not in the enrollee's plan
2 network and that services rendered by that provider may not be
3 covered by the enrollee's plan contract. The notice shall also
4 include a written estimate of the cost for the enrollee to obtain
5 those services from the provider and direct the enrollee to contact
6 his or her plan for information regarding contracting providers
7 with similar clinical expertise who offer the same services.

8 (b) A health facility or provider group shall not hold itself out
9 as being within a plan's network unless all of the individual
10 providers providing services at the facility or with the provider
11 group are within the plan network.

12 (e) A

13 1371.6. (a) In enacting this section, it is the intent of the
14 Legislature to ensure that consumers have an adequate opportunity
15 to obtain medically necessary care within their plan network.

16 (b) When an enrollee of a preferred provider organization plan
17 contract or a point-of-service plan contract receives services for
18 covered benefits from an individual noncontracting provider at
19 the provider's office or the office of the provider's provider group,
20 or at a health facility during an elective or scheduled procedure,
21 including a planned labor and delivery, a plan shall pay claims
22 for covered services rendered by a noncontracting provider to an
23 enrollee of the plan using the same rate and method of payment
24 used by the plan for contracting providers rendering from the
25 individual noncontracting provider at a rate other than the rate
26 usually paid to an individual noncontracting provider who renders
27 similar services on a noncapitated basis and who are is practicing
28 in the same or similar geographic region as the noncontracting
29 provider, unless the plan determines that the enrollee reasonably
30 should have known that the provider was a noncontracting provider
31 as described in subdivision (c). This subdivision shall not apply
32 where the plan is otherwise required, by this chapter or by the
33 enrollee's plan contract, to provide coverage for the service
34 rendered by the noncontracting provider. This subdivision shall
35 apply only to health care service plan contracts issued, amended,
36 or renewed on or after January 1, 2013.

37 (c) For purposes of subdivision (b), the following provisions
38 shall apply:

39 (1) If an enrollee receives services from an individual
40 noncontracting provider at the provider's office or the office of

1 *the provider's provider group, the enrollee reasonably should*
2 *have known that the provider was a noncontracting provider if the*
3 *provider documents to the plan that he or she provided the notice*
4 *as required under subdivision (d).*

5 *(2) If an enrollee receives services from an individual*
6 *noncontracting provider at a health facility during an elective or*
7 *scheduled procedure, including a planned labor and delivery, the*
8 *enrollee reasonably should have known that the provider was a*
9 *noncontracting provider if the facility documents to the plan that*
10 *it provided the notice as required under subdivision (e).*

11 *(d) When an enrollee of a preferred provider organization plan*
12 *contract or a point-of-service plan contract seeks services for*
13 *covered benefits from an individual noncontracting provider at*
14 *the provider's office or the office of the provider's provider group,*
15 *the provider shall, at the point of entry, provide a written notice*
16 *to the enrollee in English, Spanish, Vietnamese, Chinese, Korean,*
17 *Tagalog, Russian, Armenian, Khmer, Arabic, or Hmong, as*
18 *applicable, that includes all of the following information:*

19 *(1) A statement that the provider is not in the enrollee's plan*
20 *network.*

21 *(2) A statement that services rendered by the provider may not*
22 *be covered by the enrollee's plan contract.*

23 *(3) A statement referring the enrollee to his or her health care*
24 *service plan in order to obtain services from an in-network*
25 *provider or a provider otherwise authorized by the plan.*

26 *(4) A written estimate of the cost to the enrollee for the services*
27 *to be rendered by the provider. This estimate shall be based on*
28 *the provider's usual and customary charges for the care to be*
29 *provided.*

30 *(5) The toll-free telephone number of the department.*

31 *(e) When an enrollee of a preferred provider organization plan*
32 *contract or a point-of-service plan contract seeks covered services*
33 *for an elective or scheduled procedure, including a planned labor*
34 *and delivery, from a health facility in which individual providers*
35 *providing services within the facility are not known to the facility*
36 *to be contracting providers, the facility shall, at the earliest*
37 *possible time after the procedure is scheduled, provide a notice*
38 *to the enrollee in English, Spanish, Vietnamese, Chinese, Korean,*
39 *Tagalog, Russian, Armenian, Khmer, Arabic, or Hmong, as*
40 *applicable, that includes all of the following information:*

1 (1) A statement that specific categories of providers providing
2 services within the facility may not be in the enrollee's plan
3 network.

4 (2) A statement that services rendered by individual
5 noncontracting providers within the facility may not be covered
6 by the enrollee's plan contract.

7 (3) A statement that refers the enrollee to his or her health care
8 service plan in order to obtain services from an in-network
9 provider or a provider otherwise authorized by the plan.

10 (4) A written estimate of the cost to the enrollee for the services
11 rendered by the categories of providers described in paragraph
12 (1). The estimate shall be based on the providers' usual and
13 customary charges.

14 (5) The toll-free telephone number of the department.

15 (f) A provider group shall not hold itself out as being within a
16 plan's network unless all of the individual providers providing
17 services with the provider group are within the plan network.

18 (g) A health facility shall not hold itself out as being within a
19 plan's network unless all of the individual providers providing
20 services within the facility are within the plan network.

21 ~~(d)~~

22 (h) This section shall not apply when an enrollee seeks
23 emergency services and care required to be reimbursed by a plan
24 pursuant to Section 1371.4. *Consistent with Section 1371.4, this*
25 *section shall apply to services and care provided after an enrollee*
26 *is stabilized following an emergency.*

27 ~~(e)~~

28 (i) For purposes of this section, the following definitions shall
29 apply:

30 (1) "Health facility" has the same meaning as that term is
31 defined in Section 1250.

32 ~~(1)~~

33 (2) "Noncontracting provider" means a provider who is not
34 employed by, under contract with, or otherwise affiliated with a
35 health care service plan to provide services to the enrollee.

36 ~~(2)~~

37 (3) "Provider group" means a medical group, independent
38 practice association, or any other similar organization.

39 SEC. 2. Section 10133.68 is added to the Insurance Code, to
40 read:

1 ~~10133.68. (a) When an insured seeks health care services from~~
2 ~~a noncontracting provider, the provider shall, prior to providing~~
3 ~~care to the insured, provide a written notice to the insured~~
4 ~~informing him or her that the provider is not in the insured's~~
5 ~~provider network and that services rendered by that provider may~~
6 ~~not be covered by the insured's policy. The notice shall also include~~
7 ~~a written estimate of the cost for the insured to obtain those services~~
8 ~~from the provider and direct the insured to contact his or her insurer~~
9 ~~for information regarding contracting providers with similar clinical~~
10 ~~expertise who offer the same services.~~

11 ~~(b) A health facility or provider group shall not hold itself out~~
12 ~~as being within an insurer's provider network unless all of the~~
13 ~~individual providers providing services at the facility or with the~~
14 ~~provider group are within the provider network.~~

15 ~~(c) An~~

16 ~~10133.68. (a) When an insured receives services for covered~~
17 ~~benefits from an individual noncontracting provider at the~~
18 ~~provider's office or the office of the provider's provider group, or~~
19 ~~at a health facility during an elective or scheduled procedure,~~
20 ~~including a planned labor and delivery, an insurer that contracts~~
21 ~~with institutional and professional providers for alternative rates~~
22 ~~pursuant to Section 10133 and does not limit payments to those~~
23 ~~providers as described in subdivision (c) of Section 10133, shall~~
24 ~~pay claims for covered services rendered by a noncontracting~~
25 ~~provider to an insured of the insurer, using the same rate and~~
26 ~~method of payment used by the insurer for contracting providers~~
27 ~~rendering from the individual noncontracting provider at a rate~~
28 ~~other than the rate usually paid to an individual noncontracting~~
29 ~~provider who renders similar services and who are is practicing~~
30 ~~in the same or similar geographic region as the noncontracting~~
31 ~~provider, unless the insurer determines that the insured reasonably~~
32 ~~should have known that the provider was a noncontracting provider~~
33 ~~as described in subdivision (b). This subdivision shall not apply~~
34 ~~where the insurer is otherwise required, by this part or by the~~
35 ~~insured's policy, to provide coverage for the service rendered by~~
36 ~~the noncontracting provider. This subdivision shall apply only to~~
37 ~~health insurance policies issued, amended, or renewed on or after~~
38 ~~January 1, 2013.~~

39 ~~(b) For purposes of subdivision (a), the following provisions~~
40 ~~shall apply:~~

1 (1) If an insured receives services from an individual
2 noncontracting provider at the provider's office or the office of
3 the provider's provider group, the insured reasonably should have
4 known that the provider was a noncontracting provider if the
5 provider documents to the insurer that he or she provided the
6 notice as required under subdivision (c).

7 (2) If an insured receives services from an individual
8 noncontracting provider at a health facility during an elective or
9 scheduled procedure, including a planned labor and delivery, the
10 insured reasonably should have known that the provider was a
11 noncontracting provider if the facility documents to the insurer
12 that it provided the notice as required under subdivision (d).

13 (c) When an insured of a preferred provider organization health
14 insurance policy seeks services for covered benefits from an
15 individual noncontracting provider at the provider's office or the
16 office of the provider's provider group, the provider shall, at the
17 point of entry, provide a written notice to the insured in English,
18 Spanish, Vietnamese, Chinese, Korean, Tagalog, Russian,
19 Armenian, Khmer, Arabic, or Hmong, as applicable, that includes
20 all of the following information:

21 (1) A statement that the provider is not in the insured's provider
22 network.

23 (2) A statement that services rendered by the provider may not
24 be covered by the insured's policy.

25 (3) A statement referring the insured to his or her health insurer
26 in order to obtain services from an in-network provider or a
27 provider otherwise authorized by the insurer.

28 (4) A written estimate of the cost to the insured for the services
29 to be rendered by the provider. This estimate shall be based on
30 the provider's usual and customary charges for the care to be
31 provided.

32 (5) The toll-free telephone number of the department.

33 (d) When an insured of a preferred provider organization health
34 insurance policy seeks covered services for an elective or scheduled
35 procedure, including a planned labor and delivery, from a health
36 facility in which individual providers providing services within
37 the facility are not known to the facility to be contracting providers,
38 the facility shall, at the earliest possible time after the procedure
39 is scheduled, provide a notice to the insured in English, Spanish,
40 Vietnamese, Chinese, Korean, Tagalog, Russian, Armenian, Khmer,

1 *Arabic, or Hmong, as applicable, that includes all of the following*
2 *information:*

3 *(1) A statement that specific categories of providers providing*
4 *services within the facility may not be in the insured's provider*
5 *network.*

6 *(2) A statement that services rendered by individual*
7 *noncontracting providers within the facility may not be covered*
8 *by the insured's policy.*

9 *(3) A statement that refers the insured to his or her health*
10 *insurer in order to obtain services from an in-network provider*
11 *or a provider otherwise authorized by the insurer.*

12 *(4) A written estimate of the cost to the insured for the services*
13 *rendered by the categories of providers described in paragraph*
14 *(1). The estimate shall be based on the providers' usual and*
15 *customary charges.*

16 *(5) The toll-free telephone number of the department.*

17 *(e) A provider group shall not hold itself out as being within a*
18 *provider network unless all of the individual providers providing*
19 *services with the provider group are within the provider network.*

20 *(f) A health facility shall not hold itself out as being within a*
21 *provider network unless all of the individual providers providing*
22 *services within the facility are within the provider network.*

23 ~~(g)~~

24 *(g) This section shall not apply when an insured seeks*
25 *emergency services and care or when an insured is covered by an*
26 *insurer that does not contract for alternative rates of payment*
27 *pursuant to Section 10133. This section shall apply to care*
28 *provided after an insured is stabilized following an emergency.*

29 ~~(e)~~

30 *(h) For purposes of this section, the following definitions shall*
31 *apply:*

32 *(1) "Health facility" has the same meaning as that term is*
33 *defined in Section 1250 of the Health and Safety Code.*

34 ~~(1)~~

35 *(2) "Noncontracting provider" means a provider who has not*
36 *entered into a contract with an insurer for alternative rates of*
37 *payment pursuant to Section 10133.*

38 ~~(2)~~

39 *(3) "Provider group" means a medical group, independent*
40 *practice association, or any other similar organization.*

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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